

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

STEVEN WAYNE QUICK §
VS. § CIVIL ACTION NO. 1:05cv439
EXECUTIVE DIRECTOR, TDCJ-CID §

MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Steven Wayne Quick, an inmate incarcerated at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983.

The court previously ordered that the above-styled matter be referred to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning this matter. The magistrate judge recommends the lawsuit be dismissed without prejudice for want of prosecution.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation. The court must therefore conduct a *de novo* review of the objections in relation to the pleadings and the applicable law.

See FED. R. CIV. P. 72(b).

The magistrate judge's recommendation was based on plaintiff's failure to comply with two court orders. The first order directed plaintiff to submit an amended pleading addressing certain questions regarding his lawsuit which were set forth in the order. The other order directed plaintiff to submit either the required filing fee or a properly certified application to proceed *in forma pauperis*.

In his objections, plaintiff appeared to be attempting to comply with the order directing him to submit an amended pleading. However, plaintiff made no reference to paying the required filing fee or submitting a properly certified application to proceed *in forma pauperis*. By failing to comply or indicate any intent to comply with court order regarding payment of the filing fee or submission of an application to proceed *in forma pauperis*, plaintiff has failed to diligently prosecute this matter. His objections are therefore without merit.

O R D E R

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered dismissing this action without prejudice. If plaintiff submits the required filing fee or a properly certified application to proceed *in forma pauperis* within 30 days of the date set forth above, the final judgment

will be vacated and this case will be reinstated on the court's active docket.

SIGNED this the **24** day of **January, 2006**.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield
United States District Judge